IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 552 OF 2005

Shri Pramod Laxman Kale .. Appellant

Vs.

1. Shri Pratap Laxman Kale
and ors. .. Respondents

Mr. P.P. Kakade for the appellant.

CORAM: B.H. MARLAPALLE, J.

Date : July 29, 2005.

P.C.:

1. Heard Mr. Kakade the learned counsel for the appellant-plaintiff.

2. Special Civil Suit No.164 of 2005 has been filed before the Civil Judge, Senior Division at Pune by the appellant for the reliefs of declaration and permanent injunction. The suit property, as stated in the plaint schedule, is shares/debentures of various companies held by late Smt. P.B. Kulkarni. An application filed at Exh.5 for temporary injunction has been dismissed by the trial court by its order

dated 28-3-2005 and hence this appeal.

3. The trial court examined the scheme of Section 109A of the Companies Act 1956 and more particularly the provisions of sub section 3 of the said Section along with the scheme of Section 109B and recorded a prima facie opinion that the nominee is entitled to all the rights in the shares/debentures of the companies to the exclusion of all other persons. There is no case made out to disturb these prima facie findings. However, it would be necessary that in the pending suit the amount of such transfers is accounted for, for an effective adjudication of the claims pendente lite.

4. While the appeal fails and the same is dismissed in limine, the plaintiff is at liberty to apply to the trial court for furnishing the details of share transfers to the trial court during the pendency of the suit.

(B.H. Marlapalle,J.)